

OCA FILE

25 April 1989

OCA 1386-89

MEMORANDUM FOR: General Counsel
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C/PCS/DDO
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SA/CONG/DDO
C/OSD/OGC
AA/OSD/OGC
D/HA/OCA

FROM:

Legislation Division
Office of Congressional Affairs

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SUBJECT:

Request for Comments: Views Letter on
H.R. 940 (Commission To Investigate Nazi
Immigration to U.S.)

1. Attached for your comment is a draft letter to Chairman Jack Brooks of the House Judiciary Committee. The letter sets forth proposed views on H.R. 940, also attached. This bill would establish a Commission to investigate Nazi immigration to the U.S. after World War II and the role of the federal government, including intelligence agencies, therein.

2. As part of your comments, please provide any further information on the OSI, GAO, Holtzman and other investigations in this area that may be of use in responding to Chairman Brooks.

3. You will note that one of the bill's cosponsors is Representative Solarz, a new Member of the House Permanent Select Committee on Intelligence (HPSCI). Prior to his HPSCI membership, Mr. Solarz submitted a number of inquiries to the Agency concerning Kurt Waldheim. To date, though we have no indication of an active effort on Mr. Solarz's part to push this legislation.

4. Receipt of your comments by 1 May 1989 is most appreciated.

Attachments.

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Central Intelligence Agency



Washington, D.C. 20505

The Honorable Jack Brooks
Chairman
Committee on the Judiciary
House of Representative
Washington, D.C. 20515

Dear Mr. Chairman:

I write in response to your request for the views of the Central Intelligence Agency on H.R. 940, the "Commission to Investigate Federal Involvement with the Immigration of Nazi Collaborators Act".

H.R. 940 would establish a seven member Commission, composed of members designated by the executive and legislative branches, to investigate any efforts by the federal government to assist Nazi war criminal and Axis collaborators to enter the United States (Section 3 (a)). As part of this investigation, the Commission would be specifically charged to determine the extent to which the intelligence agencies of the federal government "used deception or violated the laws of the United States in bringing these individuals to the United States and the extent to which these agencies provided false or misleading information to Congress concerning their activities in this respect" (Section 3 (b) (3)). The Commission would be vested with subpoena power (Section 4 (c)) and all federal agencies would be required to provide any information requested by the Commission in connection with its duties (Section 4 (b)). Eighteen months after its creation, the Commission would issue a report to the President and the Congress (Section 3 (c)) and then go out of existence (Section 6).

The Agency is sensitive to the issue of the unlawful entry by Nazi collaborators into the United States. In this regard,

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The Honorable Jack Brooks

the Agency has cooperated and will continue to cooperate with the work of the Department of Justice's Office of Special Investigations. We have also cooperated with similar past efforts by the General Accounting Office and the Committee's own Subcommittee on Immigration, Refugees and International Law under the chairmanship of then-Representative Holtzman. The Agency believes H.R. 940 would unnecessarily duplicate these efforts and thus, we cannot support the legislation.

The Office of Management and Budget advises that there is no objection to the submission of this report from the Administration's standpoint.

Sincerely,


Acting Director of Congressional Affairs

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101ST CONGRESS
1ST SESSION

H. R. 940

To establish a Commission to Investigate Federal Involvement With the
Immigration of Nazi Collaborators.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 1989

Mr. FRANK (for himself, Mr. SOLARZ, Mr. LANTOS, Mr. GALLO, Mr. SAXTON,
Mr. CARDIN, and Mr. MORRISON of Connecticut) introduced the following
bill; which was referred to the Committee on the Judiciary

A BILL

To establish a Commission to Investigate Federal Involvement
With the Immigration of Nazi Collaborators.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Commission to Investi-
5 gate Federal Involvement With the Immigration of Nazi
6 Collaborators Act".

7 **SEC. 2. ESTABLISHMENT OF COMMISSION.**

8 (a) **IN GENERAL.**—There is established a commission to
9 be known as the Commission to Investigate Federal Involvement

1 ment With the Immigration of Nazi Collaborators (herein-
2 after in this Act referred to as the "Commission").

3 (b) MEMBERS.—(1) The Commission shall be composed
4 of seven members, who shall be appointed within ninety days
5 after the date of the enactment of this Act, as follows:

6 (A) Three to be appointed by the President.

7 (B) Two members to be appointed by the Presi-
8 dent from a list transmitted by the Speaker of the
9 House of Representatives.

10 (C) Two members to be appointed by the Presi-
11 dent from a list transmitted by the President pro tem-
12 pore of the Senate.

13 (2) Each list transmitted under paragraph (1) shall con-
14 tain the names of at least six individuals. In preparing such
15 lists the Speaker of the House of Representatives shall con-
16 sult with the minority leader in the House of Representatives
17 and the President pro tempore of the Senate shall consult
18 with the minority leader in the Senate.

19 (3) No individual who is an officer or employee of the
20 Federal Government is eligible to serve as a member of the
21 Commission.

22 (c) TERMS AND VACANCY.—Members shall be appoint-
23 ed for the life of the Commission. Any vacancy occurring in
24 the membership of the Commission shall not affect its powers

1 and shall be filled in the same manner in which the original
2 appointment was made.

3 (d) MEETING.—The first meeting of the Commission
4 shall be called by the President within one hundred and
5 twenty days after the date of the enactment of this Act, or
6 within thirty days after the date on which legislation is en-
7 acted making appropriations to carry out this Act, whichever
8 date is later. Thereafter, the Commission shall meet at the
9 discretion of its Chairman or at the call of a majority of its
10 members.

11 (e) QUORUM.—Four members of the Commission shall
12 constitute a quorum, but a lesser number may hold hearings.

13 (f) CHAIRMAN.—The Commission shall elect a Chair-
14 man and Vice Chairman from among its members. The term
15 of office of each shall be for the life of the Commission.

16 (g) NO COMPENSATION BUT TRAVEL EXPENSES.—No
17 member of the Commission shall be paid any compensation
18 by virtue of service performed as a member of the Commis-
19 sion. However, while away from their homes or regular
20 places of business in the performance of services for the Com-
21 mission, members of the Commission shall be allowed travel
22 expenses, including per diem in lieu of subsistence, in the
23 same manner as persons employed intermittently in the Gov-
24 ernment service are allowed expenses under section 5703 of
25 title 5, United States Code.

1 SEC. 3. DUTIES.

2 (a) GENERAL INVESTIGATION.—The Commission shall
3 conduct a full and complete investigation of any efforts by the
4 Federal Government to assist Nazi war criminals and Axis
5 collaborators in entering the United States, including any
6 such efforts to conceal their backgrounds and any knowledge
7 by Federal officials of their backgrounds.

8 (b) SPECIFIC REVIEW.—In particular, the Commission
9 shall determine—

10 (1) how many Nazi war criminals and Axis
11 collaborators entered the United States with the
12 assistance or knowledge of officials of the Federal
13 Government,

14 (2) the nature and extent of such assistance and
15 knowledge, including the levels of the officials who
16 provided that assistance or had such knowledge, and

17 (3) the extent to which intelligence agencies of
18 the Federal Government used deception or violated the
19 laws of the United States in bringing these individuals
20 to the United States, and the extent to which these
21 agencies provided false or misleading information to
22 Congress concerning their activities in this respect.

23 (c) REPORT.—The Commission shall submit a written
24 report of its findings and recommendations to the President
25 and the Congress as soon as practicable, but not later than
26 eighteen months after the date of the first meeting of the

1 Commission under section 2(d). Such report may include rec-
2 ommendations for such changes in law or regulations as may
3 be required to safeguard against unlawful assistance in simi-
4 lar cases.

5 **SEC. 4. POWERS OF COMMISSION.**

6 (a) **MEETINGS AND HEARINGS.**—For purposes of carry-
7 ing out this Act, the Commission or, on the authorization of
8 the Commission, any subcommittee or member thereof, may
9 hold such hearings, sit and act at such times and places, take
10 such testimony, and receive such evidence as it considers
11 appropriate.

12 (b) **OBTAINING INFORMATION FROM FEDERAL AGEN-**
13 **CIES.**—The Commission may secure directly from any de-
14 partment or agency of the United States such information as
15 the Commission may require to carry out its duties under this
16 Act. Upon request of the Chairman of the Commission, the
17 head of such department or agency shall furnish such
18 information to the Commission.

19 (c) **SUBPOENAS.**—(1) In carrying out this Act, the
20 Commission may require, by subpoena or otherwise, the at-
21 tendance and testimony of such witnesses and production of
22 any evidence that relates to any matter which the Commis-
23 sion has the authority to investigate. A subpoena may be
24 authorized and issued by the Commission in the conduct of its
25 investigations only when authorized by a majority of its

1 members voting, a majority being present. Subpoenas may be
2 issued over the signature of the Chairman of the Commission,
3 or any member of the Commission designated by that Chair-
4 man. The Chairman of the Commission, and any member of
5 the Commission designated by the Chairman, may administer
6 oaths to any witness.

7 (2) If a person issued a subpoena under paragraph (1)
8 refuses to obey such subpoena or is guilty of contumacy, any
9 court of the United States within the judicial district within
10 which the hearing is conducted or within the judicial district
11 within which such person is found or resides or transacts
12 business may (upon application by the Commission) order
13 such person to appear before the Commission to produce evi-
14 dence or to give testimony relating to the matter under inves-
15 tigation. Any failure to obey such order of the court may be
16 punished by such court as a contempt thereof.

17 (3) The subpoenas of the Commission shall be served in
18 the manner provided for subpoenas issued by a United States
19 district court under the Federal Rules of Civil Procedure for
20 the United States district courts.

21 (4) All process of any court to which application may be
22 made under this section may be served in the judicial district
23 in which the person required to be served resides or may be
24 found.

1 (5) The Commission is deemed to be an agency of the
2 United States for the purpose of applying part V of title 18,
3 United States Code (relating to immunity of witnesses) to
4 proceedings before the Commission.

5 **SEC. 5. ADMINISTRATIVE PROVISIONS.**

6 (a) **STAFF.**—(1) The Commission may appoint and fix
7 the compensation of such personnel as may be necessary,
8 without regard to the provisions of title 5, United States
9 Code, governing appointments in the competitive service, and
10 without regard to the provisions of chapter 51 and subchap-
11 ter III of chapter 53 of such title relating to classification and
12 General Schedule pay rates, except that the compensation of
13 any employee of the Commission may not exceed a rate
14 equivalent to the rate payable under GS-18 of the General
15 Schedule under section 5332 of such title.

16 (2) Upon request of the Commission, the head of any
17 Federal agency is authorized to detail to the Commission, on
18 a reimbursable basis, any of the personnel of such agency to
19 assist the Commission in carrying out its duties under this
20 Act and such detail shall be without interruption or loss of
21 civil service status or privilege.

22 (b) **USE OF EXPERTS AND CONSULTANTS.**—The Com-
23 mission may obtain the services of experts and consultants in
24 accordance with the provisions of section 3109 of title 5,
25 United States Code, but at rates for individuals not to exceed

1 the daily equivalent of the minimum annual rate of basic pay
2 payable for GS-16 of the General Schedule.

3 (c) ADMINISTRATIVE SERVICES.—The Commission
4 may enter into agreements with the Administrator of Gener-
5 al Services for procurement of necessary financial and admin-
6 istrative services, for which payment shall be made by reim-
7 bursement from funds of the Commission in such amounts as
8 may be agreed upon by the Chairman of the Commission and
9 the Administrator.

10 (d) SUPPLIES.—The Commission may procure supplies,
11 services, and property by contract in accordance with the
12 applicable laws and regulations and to the extent or in such
13 amounts as are provided in advance in appropriations Acts.

14 (e) GIFTS.—The Commission may accept, use, and dis-
15 pose of gifts or donations of services or property.

16 SEC. 6. TERMINATION OF COMMISSION.

17 The Commission shall terminate ninety days after the
18 date on which the report of the Commission is submitted to
19 the Congress under section 3(c).

20 SEC. 7. AUTHORIZATION OF APPROPRIATIONS; RESTRICTION 21 ON CONTRACT AUTHORITY.

22 (a) AUTHORIZATION OF APPROPRIATIONS.—To carry
23 out the provisions of this Act, there are authorized to be
24 appropriated such sums as may be necessary.

9

1 (b) RESTRICTION ON CONTRACT AUTHORITY.—Any
2 authority under this Act to enter into contracts shall be effec-
3 tive only to such extent or in such amounts as are provided in
4 advance in appropriation Acts.

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(Commission To Investigate Nazi Immigration to U.S.)

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